REMARKS

In Applicant's previous response filed on November 19, 2008, Applicant filed claim amendments, as an alternative approach in the event that the Examiner was not persuaded by Applicant's remarks regarding Applicant's February 11, 2008 suggested Interference. Subject to a request that the Patent Office reconsider its position and declare that Interference, Applicant contingently elected to reinstate and pursue allowance of then-canceled Claims 49-74 and 76-90.

In the Notice of Non-Compliant Amendment mailed December 31, 2008, Applicant was advised that canceled Claims 49-74 and 76-90 may only be reinstated with new claim numbers. In the present corrective filing and supplemental response, Applicant has corrected the numbering of reinstated canceled Claims 49-74 and 76-90. Specifically, Applicant has renumbered and submits previously canceled Claims 49-74 and 76-90 as new Claims 104 -144. In addition, Applicant has made further revisions to new Claims 106, 109, 110, 112-116, 118, 121, 122, 123, 125, 126, 129, 135-137, and 144, and has added Claims 145-156. Among other things, Applicant has further defined "said underlying information" in new Claims 106, 110 and 112 and included Centers for Medicare and Medicaid Services in Claims 109, 110, 112-115, 123, 126, 129, and 144. Accordingly, after entry of the present response, Claims 104 -156 will be pending.

For convenience, Applicant has provided below a marked version of the new claims to show the further amendments within previously canceled Claims 49-74 and 76-90 (submitted as new claims 104-144).

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104. (New; Previously Claim 49) Apparatus for gathering medical information regarding a patient and generating a billing code related to that information, including:

electronic means including:

a prompting means to repeatedly generate real-time prompts for various information including medical services being provided; and

a recording means for recording the information,

wherein said real-time prompts include:

a guiding means for guiding a physician during an interaction with a patient and a reminding means to remind the physician regarding specific points of inquiry relevant to further examination of the patient, and

a soliciting means to solicit underlying information regarding the details of the medical service being provided, said underlying information being usable for calculating a medical service code based upon said underlying information, said underlying information being necessary for determining and supporting the medical services code for purposes of the physician eventual billing for the services;

the electronic means further including:

a processing means for calculating intermediate values based on said recorded information; and

a processing means for using said intermediate values to generate said billing code.

105. (New; Previously Claim 50) The apparatus of Claim 104, in which said electronic means comprises a handheld computer with a touch screen interface, said interface facilitating the entering and recording of the patient information in real time.

106. (New; Previously Claim 51) A method for gathering a patient's data and using that data in generating a billing code, including the steps of:

providing an electronic computer for implementing the steps of:

generating real-time prompts to prompt an information gatherer interacting with a patient to gather information that at least includes information relevant to calculating the billing code, said computer prompts including:

guiding the information gatherer during said interaction with the patient and

reminding the information gatherer regarding specific points of inquiry relevant to further examination of that patient;

soliciting underlying information usable for calculating a description of medical service, said underlying information ~~being~~comprising details of a patient history, details of a patient examination and/or details of medical decision making regarding a patient diagnosis, details of medical tests to describe, diagnose and/or treat the patient, information used for clinical research, information used for quality assurance, and/or information used to compile patient care data base information;

obtaining and recording that information;

repeating said prompting, obtaining, and recording steps; and

electronically calculating a desired billing code from said gathered data.

107. (New; Previously Claim 52) The method of Claim 106, further including a step before said billing code calculation, said further step comprising electronically calculating an intermediate value for some subset of the data recorded for the patient.

108. (New; Previously Claim 53) The method of Claim 106 or 107, in which said electronic computer is provided in the form of a handheld computer with a touch screen interface, said recording step involving entering the patient information in real time via said touch screen interface.

109. (New; Previously Claim 54) The method of Claim 106 or 107, in which said step of calculating a billing code calculates an appropriate code from the United States Health Care Financing Administration (now known as Centers for Medicare and Medicaid Services) codes.

110. (New; Previously Claim 55) A method of calculating a medical billing code that complies with the requirements of the United States Health Care Financing Administration (now known as Centers for Medicare and Medicaid Services), including the steps of:

(a) providing an electronic computer or scannable form;

(b) generating real-time prompts for prompting an information gatherer interacting with a patient to gather information via said electronic computer or said scannable form to gather information;

(c) gathering information that at least includes information relevant to calculating the billing code;

(d) guiding said information gatherer during said interaction with the patient;

(e) reminding said information gatherer regarding specific points of inquiry relevant to further examination of that patient; and

(f) soliciting underlying information usable for calculating a description of the medical services being provided rather than said prompts soliciting said information gatherer for the description itself of the medical services, said underlying information comprising details of a patient history, details of a patient examination and/or details of medical decision making regarding a patient diagnosis, details of medical tests to describe, diagnose and/or treat the patient, information used for clinical research, information used for quality assurance, and/or information used to compile patient care data base information;

(g) obtaining and recording that information into said electronic computer or said scannable form;

repeating steps (a)-(g); and

electronically calculating a desired billing code from said gathered data.

111. (New; Previously Claim 56) The method of Claim 110, in which said electronic computer is provided in the form of a handheld computer with a touch screen interface, and said recording step involving entering the patient information in real time into said electronic computer via said touch screen interface.

112. (New; Previously Claim 57) An integrated electronic system for conducting a medical interview of a patient and contemporaneously compiling medical data and calculating an appropriate Evaluation and ~~&~~ Management billing code based on that interview, including:

electronic means including:

a prompting means for generating real-time prompts to prompt an interviewer to make a series of inquiries for eliciting corresponding responses from the patient during a patient encounter, said series of inquiries and said corresponding responses including at least sufficient details to support billing requirements imposed by payer mandates, said series of inquiries including individual data elements needed to calculate or derive the Evaluation and ~~&~~ Management billing code ~~based on billing requirements imposed by HCFA~~,

said prompting means further including:

a calculating means for calculating further prompting for inquiries regarding ~~to make of~~ the patient using at least some of the preceding responses;

a guiding means for guiding the interviewer during said interaction with the patient;

a reminding means to remind the interviewer regarding specific points of inquiry relevant to further examination of that patient; and

a soliciting means to solicit underlying information usable for calculating a description of the medical services being provided, said underlying information comprising details of a patient history, details of a patient examination and/or details of medical decision making regarding a patient diagnosis, details of medical tests to describe, diagnose and/or treat the

patient, information used for clinical research, information used for quality assurance, and/or information used to compile ~~for~~ patient care data base information;

the electronic means further including:

a recording means for recording responses regarding the patient ~~the patient's response~~ or other information regarding the prompted inquiry; and

a calculating means for calculating the Evaluation ~~&~~and Management billing code which meets the billing requirements imposed by said payer mandates, said billing code based on information recorded from the medical interview;

the integrated electronic system further including:

data forms for collecting and storing data from said patient encounter, said data comprising responses regarding the patient ~~responses~~, user responses to said prompts for said description and/or information, and user generated text information based in part on said patient encounter;

a timer for tracking total patient encounter time and total patient counseling time during said patient encounter, and an algorithm for comparing total patient encounter time and total patient counseling time, and determining said billing code based upon said comparison~~computing when said counseling time exceeds fifty percent of said total time;~~ and

~~a storage and access medium~~ a data storage and access means for storing said data from said patient encounter having:

codes representative of at least one of billing, procedure, and documentation requirements;

an algorithm for linking, comparing, and computing said collected data with said requirement codes; and

a resultant code based in part on said linked, compared, and computed data.

113. (New; Previously Claim 58) Apparatus for electronically calculating an appropriate United States Health Care Financing Administration (HCFA) (now known as Centers for Medicare and Medicaid Services (CMS)) billing code based on a medical examination of a patient, including:

electronic means for recording information gathered during the medical examination to support billing requirements imposed by HCFA (CMS);

electronic means for automatically determining, based upon said gathered information, intermediate HCFA (CMS) code values for sub-parts of the examination; and

electronic means for automatically determining, based upon said gathered information, an appropriate final HCFA (CMS) billing code from the intermediate HCFA (CMS) code values.

114. (New; Previously Claim 59) Electronic apparatus for use in connection with an encounter between a medical practitioner and a patient, comprising:

electronic means for prompting the medical practitioner regarding data to be obtained from the patient regarding patient care and corresponding Health Care Financing Administration (HCFA) (now known as Centers for Medicare and Medicaid Services (CMS)) billing codes, said data including the individual data elements needed to calculate and derive the final billing code based on billing requirements imposed by HCFA (CMS), said data constituting specific details about the patient encounter other than raw codes;

a data storage and access means for storing said data from the patient and providing access to:

a menu section comprising at least one of history, physical examination, and medical decision making questions, said menu section related to said means for prompting the medical practitioner;

payer mandated requirement codes;

scores based in part on results from responses to said menu section;
an algorithm for linking and processing said requirement codes with said scores; and
a resultant code based in part on said linked and processed requirement codes and scores.

115. (New; Previously Claim 60) The apparatus of Claim 114, wherein said payer mandated requirement codes are Health Care Financing Administration (now known as Centers for Medicare and Medicaid Services) codes.

116. (New; Previously Claim 61) The apparatus of Claim 114, further comprising a timer for timing total time and patient counseling time during said encounter~~data gathering session~~.

117. (New; Previously Claim 62) The apparatus of Claim 114, further comprising software for enabling a user of said apparatus to self-generate questions in any particular order.

118. (New; Previously Claim 63) The apparatus of Claim 114, further comprising option for noting dictation and for later including said dictation with said stored data~~appending dictated notes with said responses~~.

119. (New; Previously Claim 64) The apparatus of Claim 114, further comprising at least one of history score, physical examination score, and medical decision making score.

120. (New; Previously Claim 65) The apparatus of Claim 114, further comprising a final score, based at least in part on said history score, physical examination score, and medical decision making score.

121. (New; Previously Claim 66) The apparatus of Claim 114, further including dictated and/or free form text information, said information ~~is~~ based at least in part on said responsive data.

122. (New; Previously Claim 67) The apparatus of Claim 121, further including a final text version comprising responses to at least one of said history, physical examination, and medical decision making questions and said dictated and/or free form text information for at least one of said history, physical examination, and medical decision making questions.

123. (New; Previously Claim 68) Apparatus for compiling medical data and generating claims consistent with payer mandates, comprising:

electronic means for displaying topics of inquiry for use with a patient during a patient encounter, said topics of inquiry including at least sufficient details to support billing requirements imposed by said payer mandates, said topics of inquiry including individual data elements needed to calculate or derive the final billing code based on billing requirements imposed by Health Care Financing Administration (HCFA) (now known as Centers for Medicare and Medicaid Services (CMS));

data forms for collecting and storing data from said patient encounter, said data comprising patient responses and user generated text information based in part on said patient encounter;

a storage and access medium having:

codes representative of at least one of billing, procedure, and documentation requirements;

an algorithm for linking, comparing, and computing said collected data with said requirement codes; and

a resultant code based in part on said linked, compared, and computed data.

124. (New; Previously Claim 69) The apparatus of Claim 123, wherein said resultant code is an evaluation and management code to be used in a claim and for submitting to a payer.

125. (New; Previously Claim 70) The apparatus of Claim 123, further comprising a timer for tracking total time and patient counseling time during said patient encounter, and algorithm for computing the percent of total time used for counseling~~when said counseling time exceeds fifty percent, of said total time~~.

126. (New; Previously Claim 71) The apparatus of Claim 124, wherein said requirement codes are Health Care Financing Administration (now known as Centers for Medicare and Medicaid Services) codes.

127. (New; Previously Claim 72) The apparatus of Claim 123, wherein said requirement codes are insurance requirement codes.

128. (New; Previously Claim 73) The apparatus of Claim 124, 125, 126, or 127 wherein said electronic means comprising one of desktop computer, computer terminal, laptop computer, handheld computer, handheld device, voice recognition device, voice recognition software, handwriting recognition device, or hand writing recognition software.

129. (New; Previously Claim 74) A medical electronic device for facilitating patient inquiries, for collecting and storing responses to said inquiries, and for generating documentation and claim requirements, said device comprising:

an electronic means for prompting a user with questions and inquiries and

a storage and access medium for storing responses and free text information, the storage and access medium including:

medical charts having at least one of history, physical examination, and medical decision making information;

software configured for storing Health Care Financing Administration (now known as Centers for Medicare and Medicaid) codes, and for linking said responses with said Health Care Financing Administration (Centers for Medicare and Medicaid Services) codes; and

a resultant code based in part on said linked responses.

130. (New; Previously Claim 76) A process for generating documents, records, and codes in compliance with government or health insurance mandates, said process including the steps of:

(a) providing a database of procedure and treatment requirements;

(b) using at least one electronic input device to gather information regarding a patient-based at least in part on information in said database and at least in part on one of history, physical examination, and medical decision making inquiries;

(c) calculating scores, said scores are based in part on said requirements and related to billing codes and said gathered information;

(d) electronically linking said gathered information, said requirements, and said scores for processing;

(e) processing said linked information with an algorithm to compute a final score;

(f) providing a copy of said final score and other gathered information; and

(g) submitting said copy to a government or a health insurance entity for payment.

131. (New; Previously Claim 77) The apparatus of Claim 104, 112, or 113, wherein said electronic means comprises at least one of desktop computer, computer terminal, laptop computer, handheld computer, handheld device, voice recognition device, voice recognition software, and scannable paper forms.

132. (New; Previously Claim 78) The method of Claim 106 or Claim 107 or Claim 108 or Claim 109 or Claim 110 or Claim 111, wherein said electronic computer is at least one of desktop computer, computer terminal, laptop computer, handheld computer, handheld device, voice recognition device, voice recognition software, and scannable forms.

133. (New; Previously Claim 79) The system of Claim 112, further including at least one scannable form for prompting inquiries.

134. (New; Previously Claim 80) The apparatus of Claim 114, 115, or 123, further including at least one scannable form for prompting inquiries.

135. (New; Previously Claim 81) The apparatus of Claim 104 or 113, wherein said billing code is based at least in part on comparing a total patient encounter time and a total patient counseling time, and determining said billing code based upon said comparison.

136. (New; Previously Claim 82) The method of Claim 106 or 110, wherein said billing code is based at least in part on comparing a total patient encounter time and a total patient counseling time.

137. (New; Previously Claim 83) The system of Claim 112, wherein the resultant code is based at least in part on comparing a total patient encounter time and a total patient counseling time.

138. (New; Previously Claim 84) The apparatus of Claim 114, 115, 123, or 124, wherein said data includes patient counseling information and patient care information.

139. (New; Previously Claim 85) The method of Claim 106, 107, or 110 further including storing patient counseling information and patient care information, and using said stored information for billing, historical tracking and analyzing.

140. (New; Previously Claim 86) The device of Claim 129, wherein said information includes patient counseling information and patient care information.

141. (New; Previously Claim 87) The electronic system on Claim 112, further including inquiries relating to history, physical exam, and medical decision making, and algorithm for computing said billing code based in part on said history, physical exam, and medical decision making inquiries.

142. (New; Previously Claim 88) The apparatus of Claim 104, in which at least some of said repeated prompting is determined by previous information recorded.

143. (New; Previously Claim 89) The method of Claim 106, in which at least some of said repeated prompting is dependent on previous data gathered from the patient.

144. (New; Previously Claim 90) The system of Claim 112, further including: computer-readable patient-administered information forms for obtaining certain data related to patient care or to Health Care Financing Administration (HCFA) (now known and Centers for Medicare and Medicaid Services (CMS)) requirements.

145. (New) The system of Claim 112, where said billing code is based on billing requirements imposed by the United States Health Care Financing Administration (now known as Centers for Medicare and Medicaid Services) codes.

146. (New) The system of Claim 112, in which said electronic means comprises a handheld computer with a touch screen interface, said interface facilitating the recording of the patient information in real time.

147. (New) The system of Claim 112, further comprising software for enabling a user of said system to self-generate questions in any particular order.

148. (New) The system of Claim 112, further including communicating means including a final text version comprising said stored data and/or dictated text and/or free form text for at least one of said details of a patient history, details of a patient examination, and details of medical decision making regarding a patient diagnosis.

149. (New) The system of Claim 112, further including at least one scannable or electronic form for gathering information about patient history from or on behalf of the patient.

150. (New) The method of Claim 106, further including storing said underlying information, and using said stored information for clinical care, quality assurance, and/or research purposes.

151. (New) The system of Claim 112, further including storing said underlying information, and using said stored information for clinical care, quality assurance, and/or research purposes.

152. (New) The system of Claim 112, wherein said electronic means comprising one of desktop computer, computer terminal, laptop computer, handheld computer, handheld device, voice recognition device, voice recognition software, handwriting recognition device, or hand writing recognition software.

153. (New) The system of Claim 112 further including storing patient counseling information and patient care information, and using said stored information for billing, historical tracking and analyzing.

154. (New) The apparatus of Claim 113, 114, or 129, further including storing patient counseling information and patient care information, and using said stored information for billing, historical tracking and analyzing.

155. (New) The apparatus of Claim 113, 114, or 129, further including: computer-readable patient-administered information forms for obtaining certain data related to patient care or to Health Care Financing Administration (HCFA) (now known and Centers for Medicare and Medicaid Services (CMS)) requirements.

156. (New) The method of Claim 106, 107, or 110, further including: computer-readable patient-administered information forms for obtaining certain data related to patient care or to

Health Care Financing Administration (HCFA) (now known and Centers for Medicare and Medicaid Services (CMS)) requirements.

Applicant respectfully submits that these amendments do not change the scope of the claims and are supported in Applicant's original-filed specification (see: e.g., p. 9, l. 2-11; p. 10, l. 20-p.11, l. 2; p. 13, l. 17-p. 14, l. 10; p. 20, l. 7-17).

Further in that regard, Applicant notes that the HCFA (clearly set forth and supported throughout Applicant's specification) has transitioned to a new name: "Centers for Medicare & Medicaid Services." This transition has occurred since the filing of Applicant's current application, and is documented (among other places) at websites such as http://www.hcfa.gov. To the extent that the Examiner requires some formal submission of same from Applicant, Applicant respectfully requests notice of same and an opportunity to respond and provide some such formal materials. In any case, Applicant respectfully submits that this contemporaneous change/transition by the HCFA (outside of Applicant's control) does not constitute the submission of new matter.

This is consistent with comments in Applicant's previous submissions to the Patent Office. As set forth there, as of July 1, 2001, the federal agency responsible for administering many health-related programs, the United States Health Care Financing Administration (or HCFA), is now called the Centers for Medicare & Medicaid Services (CMS or CMMS) and Applicant therefore submits that HCFA (within Applicant's disclosure) is intended to and should include CMS and/or CMMS as well.

In addition and related to the transition of the Health Care Financing Administration (HCFA) to Centers for Medicare and Medicaid Services (CMS and/or CMMS), Applicant has correspondingly amended the specification to reflect this name change, as set forth below in the

"Amendments to the Specification" section. Further, Applicant respectfully submits that Applicant's original-filed specification discloses that there may be other regulations apart from the HCFA, which could include CMS (see page 13, lines 7-8: "Where made necessary by HCFA or other regulations, it asks the physician questions needed to justify a given level of billing." Emphasis added).

Accordingly, Applicant respectfully submits that response is sufficient to address all the pending rejections of the claims. Moreover, Applicant respectfully submits that, as amended, at least Claim 112 (and all claims depending therefrom) is in condition for allowance as currently pending, notice whereof is respectfully requested of the Examiner.

This filing is being made electronically. To the extent that any charges or credits are due and are not otherwise addressed, the Patent Office is authorized to charge or credit such amounts to the undersigned attorney's PTO Deposit Account 08-2624.

If the Examiner would like to discuss any remaining or new issues regarding this communication, the Examiner is invited to contact the undersigned representative of Applicant at (949) 718-6750.

Respectfully submitted,

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